

REMARKS

Applicants submit this Amendment in response to the Office Action dated October 19, 2006 accompanied by a petition for a three-month extension of time. A check covering the requisite petition fee is enclosed herewith. No additional fees are believed to be due for proper entry and consideration of this Amendment. Nevertheless, if the Office deems otherwise, kindly charge the cost thereof to Deposit Account No. 13-2855, Order No. 30071/39659.

OBJECTIONS TO THE SPECIFICATION

The specification stands objected to for failing to include several suggested section headings, and referring to the preamble of claim 1.

Applicants submit that the specification was amended in Applicants' Preliminary Amendment dated September 10, 2004. Accordingly, the specification, as presently pending, conforms to the suggested guidelines. (Applicants undersigned representative can readily supply a duplicate of the same, if needed, please so advise.)

Accordingly, reconsideration and withdrawal of these objections is respectfully requested.

CLAIM OBJECTIONS

The claims stand objected to for including reference numerals. Applicants have deleted the reference numerals.

Reconsideration and withdrawal of this objection is respectfully requested.

REJECTIONS UNDER 35 U.S.C. §103

Claims 1-8 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Harris et al. (U.S. Patent No. 4,651,879) in view of Krieg et al. (U.S. Patent No. 4,902,137). Applicants respectfully traverse this rejection.

Neither Harris nor Krieg Disclose "Bottom Clearance"

First, the Office Action alleges that Harris et al. disclose a second carousel 16 "for conveying containers with a bottom clearance..." Office Action, page 5. Applicants respectfully submit that the Office misunderstands the teachings of Harris et al. Specifically,

Harris et al. disclose a chain conveyor 22 supporting the bottom of the bottles when traveling under the control of the second carousel 16. FIG. 3 depicts the bottoms of the bottles resting directly on the chain conveyor 22 when transferred from the star wheel 14 to the second carousel 16. This is also supported by the specification at column 3, lines 19-30 and column 4, lines 25-41, and further depicted in FIG. 12. Accordingly, Harris et al. do not disclose a second carousel 16 “for conveying containers with a bottom clearance...,” as recited in claim 1 of the present application.

Similarly, Krieg et al. do not disclose a second carousel 16 “for conveying containers with a bottom clearance...” Rather, Krieg et al. disclose an inspection device, where bottles are supported directly on a rotatable plate 6 (FIG. 1) such that they may be viewed through a sidewall with a camera 21 (*See* column 6, lines 9-24). Krieg et al. do not disclose the camera viewing the bottoms of the bottles, and therefore do not disclose a need to convey the bottles with bottom clearance, as recited in claim 1.

Thus, because both Harris et al. and Krieg et al. disclose surfaces directly supporting the bottoms of bottles, they do not, alone or in combination, disclose a second carousel for conveying containers with a bottom clearance, as recited in claim 1.

Neither Harris nor Krieg Disclose a “Dark Field Method”

While the Office Action alleges that Krieg et al. disclose a dark field method for detecting light scattering foreign bodies, as recited in claim 1, Applicants respectfully disagree. The method disclosed by Krieg et al. does not operate in accordance with true dark field inspection. Krieg et al., at column 6, lines 48-53, states that “[t]he polarizers 16, 17 are so adjusted relative to one another that if necessary during consideration of an optically active fluid in the bottle 7, the intensity of the light passing through the analyzer 17 and falling on the camera 21 is minimal.” This indicates that the camera receives some amount of light in every case.

Accordingly, Applicants respectfully assert that neither Harris et al. nor Krieg et al., alone or in combination, teach, suggest, or disclose each and every element of independent claim 1, as previously presented, and claim 1 should be in condition for allowance. Furthermore, claims 2-8, as previously presented, should be in condition for allowance as being dependent on an allowable base claim.

Amended Claim 1

Notwithstanding the foregoing, Applicants have amended claim 1 herein to more particularly point out and distinctly claim "A device for inspecting filled and sealed containers, the device comprising: a first carousel comprising driving elements for rotating containers about their longitudinal axes..." This amendment is not made for the purposes of patentability, but rather to clarify the subject matter of the present application. Neither Harris et al. nor Krieg et al. disclose such features.

While Harris et al. disclose a star wheel 14 for transferring bottles to the carousel 16, the star wheel 14 does not include driving elements for rotating the bottles. Rather, the star wheel 14 shown in FIGS. 1 and 4 of Harris et al. is an ordinary infeed wheel for transferring bottles from an input chute 10 to a carousel 16. Friction generated within the pockets of the star wheel 14 prevent the bottles from rotating about their longitudinal axes. Furthermore, if the bottles were to rotate, this would cause problems in the area where the bottles are transferred to the grippers 38 of the sorting carousel 16.

Further still, Harris et al. is not concerned with the inspection of filled and sealed containers. Harris et al. is only concerned with sorting empty bottles that are returned by consumers, for example (*See column 1, lines 5-23*). The empty bottles do not contain liquid requiring inspection with respect to the presence of foreign bodies. Thus, there is no reason to rotate the bottles about their longitudinal axes such as to stir up foreign bodies.

Accordingly, Harris et al. do not even suggest that a rotation of the bottles is possible or even desirable. Rather, Applicants submit that Harris et al. actually teach away from such a possibility or desire.

While Krieg et al. disclose a rotatable plate 6, there is no suggestion that the rotatable plate 6 could be part of a conveyor such as the carousel disclosed by Harris et al. Additionally, Applicants submit that it would not be apparent to a person having ordinary skill in the art how to implement the rotatable plate 6 of Krieg with the star wheel 14 or carousel 16 of Harris et al. Specifically, any attempt to combine the rotatable plate 6 disclosed by Krieg et al. with the device disclosed by Harris et al. would render the device

disclosed by Harris et al. inoperable for its intended purpose. For example, the device disclosed by Harris et al. is for sorting returned containers. The device accomplished this through the implementation of various conveyors 22-28, as depicted in FIG. 1. The conveyors 22-28 directly support the bottoms of the containers. Therefore, any incorporation of the rotatable plate 6 of Krieg et al. would interfere with the conveyors, thereby rendering the device inoperable.

Accordingly, Applicants submit that neither Harris nor Krieg, alone or in combination, teach, suggest, or disclose each and every element of amended independent claim 1, and therefore, claim 1 is in condition for allowance. Furthermore, claims 2-8 are in condition for allowance as being dependent on an allowable base claim.

Reconsideration and withdrawal of these obviousness rejections is respectfully requested.

Amended Claims 2-8

Applicants submit that minor amendments to claims 2-8 have been made herein to more particularly point out and distinctly claim the subject matter of the present invention. These amendments are neither narrowing amendments nor made for the purposes of patentability. No new matter has been added.

JUDICIAL NOTICE

Claims 2-8 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Harris et al. in view of Krieg et al. and further in view of what the Office alleges is well-known in the art. Specifically, the Office takes Official Notice that the limitations of claims 2-8 are well-known within the art, and therefore, it would have been obvious at the time the invention was made to incorporate them into the teachings of Harris et al. and Krieg et al.

Applicants respectfully TRAVERSE the Office's use of Official Notice. The subject matter recited in claims 2-8 is not well-known within the art, specifically in combination with the subject matter recited in independent claim 1, upon which each of claims 2-8 depend. The Office states that the subject matter of claims 2-8 are well-known within the art because their combination with the devices of Harris et al. and Krieg et al. would provide for inspecting containers while on a conveyor mechanism without stopping the conveying

mechanism. The Office provides no specific factual findings as to the specifically claimed elements themselves, which is predicated on sound technical and scientific reasoning to support the conclusion of common knowledge. The Office merely concludes that a result would be beneficial. Regardless of the accuracy of this statement, the Office has provided no logical explanation as to why this subject matter is well-known within the art.

Accordingly, Applicants respectfully demand the Office to produce authority and evidence in support of the facts taken as Official Notice.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If there are any issues that the Office believes may be remedied via telephone conference, Applicants hereby invite the Examiner to telephone the undersigned at (312) 474-6300.

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Respectfully submitted,

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